SENATE BILL 2214
By Graves

AN ACT to amend Tennessee Code Annotated, Title 36, relative to child support and visitation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-5-503, is amended by deleting subsection (c), in its entirety.

SECTION 2. Tennessee Code Annotated, Title 36, Chapter 5, is amended by adding Sections 3-5 as a new, appropriately designated part.

SECTION 3. The general assembly finds that many parents are obligated, pursuant to a court order, to provide financial support for their children in the event that the parents' marriage is dissolved, or the parents are separated. Many obligor parents are consistently compliant with the child support order relevant to that parent's case. In spite of the obligor parent's compliance with the child support order, some obligee parents act in violation of court ordered visitation by failing to allow the obligor parent to spend time with the child. Some obligee parents have relocated with the child or children within or outside the state of Tennessee, without notifying the obligor parent of the child or children's whereabouts.

The general assembly recognizes the importance of both the child support obligation and the visitation rights of the obligor parent. Further, the general assembly recognizes that under no circumstances should a child or children be punished by either parent's failure to adhere to a court order. However, an obligor parent should have the assurance of knowing that the monies paid in support of the child or children is used for the child or children's direct benefit. The obligor parent should have the additional assurance of knowing that the obligor's visitation rights are upheld and protected.

SECTION 4. (a) When an obligee parent is acting in violation of court ordered visitation, or when the whereabouts of an obligee parent and child or children are unknown, and the clerk

of the court, or the department of human services or its contractor in Title IV-D cases, has been unable to forward past payments, and all arrearages owed to the state as a result of the custodian's receipt of public assistance have been paid, an obligor parent may file a timely petition to modify or terminate support in accordance with section 36-5-405. If the court has granted a modification or termination of child support pursuant to this part, the court shall reinstate the child support award upon finding that the obligee parent is acting in accordance with the visitation order.

(b) The obligor may also petition the court to order the clerk of court to hold child support payments in an escrow account until the obligee adheres to the provisions of the visitation order. If the court finds that the obligee has violated the provisions of the visitation order, the court shall order the clerk to hold future child support payments in an escrow account until further order of the court. The court shall order the clerk to release child support payments held under this section upon finding that the obligee parent is acting in accordance with the visitation order.

(c) A petition to modify or terminate child support payments, or to hold child support payments in escrow may be filed when support payments equal to the amount due within one (1) month have been returned to the office of the clerk, or to the department or its contractor in Title IV-D cases, and all reasonable means to locate the obligee parent and child or children have been exhausted. The clerk of the court, or the department or its contractor in Title IV-D cases, shall notify the obligor parent that such payments have been returned to the clerk, or to the department or its contractor in Title IV-D cases. The obligor parent must submit an affidavit verifying that such obligor parent has exhausted reasonable efforts to locate the obligee parent and child or children.

SECTION 5. This part shall apply to an obligee who resides with the child, outside the state of Tennessee.

SECTION 6. This act shall take effect July 1, 2004, the public welfare requiring it.

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